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United States Department of Agriculture

AGRICULTURAL MARKETING SERVICE**Cotton Division****SERVICE AND REGULATORY ANNOUNCEMENT NO. A. M. S. 175**

REGULATIONS OF THE DEPARTMENT OF AGRICULTURE FOR COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

(Title 7, Ch. 1, Part 27, Sections 27.1-27.102 of the Code of Federal Regulations)

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DEFINITIONS

Sec. 27.1 Meaning of words. Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

Sec. 27.2 Terms defined. As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) The act. The provisions of the Internal Revenue Code of 1954 (68A Stat. 580-586; 26 U. S. C. 4851-4877) derived from the United States Cotton Futures Act (39 Stat. 476) as amended and the Internal Revenue Code of 1939 (53 Stat. 210; 26 U. S. C. 1920-1935).

(b) Department. The United States Department of Agriculture.

(c) Service. The Agricultural Marketing Service of the Department.

(d) Administrator. The Administrator of the Service, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(e) Cotton Division. The Cotton Division of the Service.

(f) Director. The Director of the Cotton Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his stead.

(g) Board of cotton examiners. A board of cotton examiners established under the act at any point.

(h) Appeal Board of Review Examiners. The Appeal Board of Review Examiners at Memphis, Tennessee.

(i) Exchange. Exchange, board of trade, or similar institution or place of business, at, on, or in which a section 4863 contract may be made.

(j) Exchange inspection agency. The inspection agency of the New York Cotton Exchange, the New Orleans Cotton Exchange, the Board of Trade of the city of Chicago, or of any other exchange which may have an organized inspection agency recognized as such by the Director, as the case may be.

(k) Section 4863 contract. Contract of sale of cotton for future delivery mentioned in the act, made at, on, or in any exchange in compliance with section 4863 of the act.

(l) Person. Individual, association, partnership, or corporation.

(m) Owner. Person who owns, controls, or has the disposition of any cotton.

(n) Classification. The determination of the grade and staple length of cotton by a cotton examiner.

(o) Micronaire determination. The measure of the fiber fineness and maturity of cotton, in combination, as determined by an authorized employee of the Department using the Micronaire instrument.

GENERAL

Sec. 27.3 Requirements of section 4863 of the act. The inspection, sampling, classification, and Micronaire determination of cotton pursuant to section 4863 of the act shall be performed as prescribed in this subpart. All tenders of cotton and settlements

therefor under section 4863 contracts shall be made subject to the regulations in this subpart. No contract shall for the purposes of this subpart be deemed to comply with section 4863 of the act if it contain or incorporate therein, by reference or otherwise, any provision or any bylaw, rule, or custom of an exchange which is inconsistent or in conflict with any requirement of said section 4863, nor if the parties enter into any collateral or additional agreement or understanding, either verbal or written, respecting the subject matter of such contract which is inconsistent or in conflict with any requirement of said section 4863.

Sec. 27.4 Obligations and rights under act; not affected by regulations. Nothing in this subpart shall be construed as relieving any party to a section 4863 contract of any obligation imposed upon him, or as depriving him of any right to which he might be entitled, under any provision of the contract or exchange rule made a part thereof which shall not be inconsistent with the act or the regulations made under the act.

Sec. 27.5 Effect of amendments. Any amendment to this subpart, unless otherwise stated therein, shall apply to all tenders of cotton and settlements therefor made on and after the effective date of such amendment, under section 4863 contracts entered into prior, as well as subsequent, to such effective date.

Sec. 27.7 Effect of regulations. As far as applicable, the regulations in this subpart shall have the same force and effect for the purposes of section 4864 as for the purposes of section 4863 of the act.

ADMINISTRATION

Sec. 27.8 Director. The Director shall perform for and under the supervision of the Administrator, such duties as the Administrator may require in enforcing the provisions of the act and this subpart.

Sec. 27.9 Boards of cotton examiners; Appeal Board; Micronaire examiners. Boards of cotton examiners shall be maintained at points designated for the purpose by the Administrator. The members of such boards and the chairman of each such board shall be designated by the Director. The Appeal Board of Review Examiners established at Memphis, Tennessee, and committees of such board authorized to serve at other points shall review the classification of any cotton in accordance with secs. 27.61 to 27.72. A Board of Supervising Cotton Examiners shall perform duties as assigned. Authorized employees of the Cotton Division shall make Micronaire determinations when such service is requested in accordance with this subpart.

Sec. 27.10 Supervisor of cotton inspection. The Director or the chairman of a board of cotton examiners may when necessary designate an official or employee of the Department to supervise the inspection and sampling and the preparation of samples of cotton for classification by a board of cotton examiners, and to perform such other duties as may be required of him for the purposes of this subpart.

Sec. 27.11 Chairman, board of cotton examiners; responsibility. Subject to this subpart and the instructions of the Director, the chairman of each board of cotton examiners shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

CLASSIFICATION REQUESTS

Sec. 27.12 Classification request for each lot of cotton. For each lot or mark of cotton of which the applicant desires separate classification and certification he shall make a separate written request in a form prescribed or supplied by the Cotton Division for that purpose.

Sec. 27.13 Micronaire determination request incidental to classification request. The classification request may include a request for Micronaire determination.

Sec. 27.14 Filing of classification and Micronaire determination requests. Requests for classification shall be filed with the chairman of the board of cotton examiners through the exchange inspection agency at the point where the cotton is sampled and shall be transmitted to the chairman by the exchange inspection agency in accordance with procedure approved by the Director. If there is no board of cotton examiners at the point where the cotton is sampled, requests shall be filed through a supervisor of cotton inspection or the exchange inspection agency at such point, or at some other place designated in particular cases by the Director. Requests for classification shall be filed within 30 days after sampling and before classification of the samples. The applicant may file a request for a review of classification as part of the request for classification. The applicant may file a request for Micronaire determination as part of the request for classification or may file a request for such determination, in a form prescribed by the Cotton Division within 7 business days following the date of the first certification of the cotton involved, provided this service has not been previously performed on such cotton, and the request is made prior to delivery of the cotton on a section 4863 contract. Requests for Micronaire determinations may also be filed as provided in secs. 27.62 and 27.63.

Sec. 27.15 Withdrawal or rejection of classification or Micronaire determination requests. Any request for classification or for Micronaire determination may be withdrawn by the applicant at any time before the classification or Micronaire determination of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed under secs. 27.80 to 27.92. Any request for classification or for Micronaire determination may be rejected for noncompliance with the act or this subpart.

INSPECTION AND SAMPLES

Sec. 27.16 Inspection; sampling; preparation. The inspection and sampling and the preparation of samples of cotton of which classification is desired shall be by or under the direction of an exchange inspection agency and subject to the supervision and in accordance with the instructions of a supervisor of cotton inspection or a cotton examiner whose duties include such supervision.

Sec. 27.17 Cotton to be made available for classification. The owner of the cotton shall cause it to be made available to such supervisor or cotton examiner for such examination as may be necessary for the purposes of its classification, and shall take such steps as may be necessary to secure its proper inspection and sampling and the proper preparation and delivery of representative samples thereof at the place designated therefor, in accordance with this subpart, without expense to the Department.

Sec. 27.18 Persons not to be employed for inspection or sampling. No person shall, after notice to the interested parties, be employed in any way in connection with any phase of the inspection and sampling of cotton, or the preparation of the samples thereof, for the purposes of classification under this subpart, who for good cause is disapproved by the Director.

Sec. 27.19 Rejection of cotton for classification. No cotton covered by a classification request filed as provided in this subpart shall be rejected by any person other than a cotton examiner, on account of grade or staple or otherwise, unless the request for the classification of the cotton so rejected shall be withdrawn by the person by whom it was made.

Sec. 27.20 Drawing of samples of cotton. One sample shall be drawn from the top side of each bale and one from the bottom side. Each such sample shall weigh not less than 5 ounces, the two samples from each bale to weigh together not less than 10 ounces. The head of the bale shall be properly inspected, and any conditions not fully indicated by the samples shall be specified by the inspector or the sampler of the cotton in a written memorandum, which shall accompany the samples to the board of cotton examiners.

Sec. 27.21 Preparation of samples of cotton. The samples from each bale shall be prepared as specified in this section. The sample from the top side and the sample from the bottom side shall each be broken into two parts. One part of the sample from the top side shall be placed with a part of the sample from the bottom side, making two sets of samples from each bale. One of such sets shall weigh as nearly as possible 6 ounces, equally divided between the two parts thereof representing the two sides of the bale. There shall be placed in each such set of samples between the two sides thereof a coupon showing the number of the tag attached to the bale from which such samples were drawn. The 6-ounce set of samples from each bale shall be called the original and the other set the duplicate.

Sec. 27.22 Wrapping and marking of samples of cotton. The original sets of samples of the bales constituting a lot or mark to be classified separately shall be inclosed in one or more wrappers or containers, as the case may require. The wrappers or containers of original samples shall be so labeled or marked, or both, as to show that they contain original samples, together with the lot number, if any, the marks, and the number of bales, and such other information as may be necessary in accordance with the instructions of the chairman of the board to which the samples are to be delivered.

Sec. 27.23 Duplicate sets of samples of cotton. The duplicate sets of samples shall be inclosed in wrappers or containers separate and apart from the original sets in the manner prescribed for original samples in the foregoing section, except that the wrappers or containers shall be labeled or marked, or both, so as to show that they contain duplicate samples and shall be delivered to the person requesting the classification of the cotton.

Sec. 27.24 Delivery of samples of cotton. The original sample from each bale to be classified shall be delivered to the board of cotton examiners with which the classification request was filed, at its classification room. If there is no board of cotton examiners at the point where the cotton is sampled, the samples shall be delivered to a supervisor of cotton inspection or to the exchange

inspection agency at such point, for forwarding to the proper board. No samples covered by pending classification requests which are ready for delivery as provided for herein shall be withheld from such delivery except as authorized in writing by the chairman of the board of cotton examiners or the Director.

Sec. 27.25 Additional samples of cotton; drawing. In addition to the samples hereinbefore prescribed, separate samples, if desired, may be drawn and furnished to the owner of the cotton.

Sec. 27.26 Handling of samples of cotton. All persons in any way connected with the inspection and sampling and handling of samples of cotton for the purpose of classification pursuant to this subpart shall carefully handle them in such manner as not to cause loss of sand therefrom or any change otherwise in their representative character.

Sec. 27.27 Rejection of sample; resampling. Any sample or set of samples which does not meet the requirements of the regulations in this subpart or which does not correctly represent the bale or bales from which drawn may be rejected by a supervisor of cotton inspection or a cotton examiner whose duties include the supervision or examination of such cotton. Whenever the supervisor of cotton inspection or the chairman of the board shall find it necessary in order to determine the true classification of any bale, such bale shall be reinspected and, if necessary, resampled, and the new samples shall be delivered at the place designated therefor in accordance with this subpart.

Sec. 27.28 Disposition of samples. Samples representing bales for classification or Micronaire determination, which come into the custody of the Department on or after April 1, 1957, shall become the property of the Department after classification or Micronaire determination and shall be disposed of in accordance with the property regulations of the Department. Samples in the custody of the Department on March 31, 1957, representing bales which are covered by outstanding cotton class certificates issued pursuant to this subpart, will be retained by the Department until the certificates are surrendered for cancellation and will then be made available to the persons who surrender the certificates for cancellation.

CLASSIFICATION AND MICRONAIRE DETERMINATIONS

Sec. 27.31 Classification of cotton and Micronaire determinations; by whom made. For the purposes of section 4863 of the act the classification of any cotton shall be determined only by cotton examiners designated as such by the Director. Official Micronaire determinations, when requested, shall be made only by authorized employees of the Cotton Division.

Sec. 27.32 Order of classification. All cotton for which classification requests shall be pending shall be classified as far as practicable in the order in which proper samples thereof, ready for such classification, shall have been delivered to the board of cotton examiners whose duties include the examination thereof, except as otherwise provided in this subpart or when the chairman of the board or the Director shall find that an emergency exists and shall order otherwise.

Sec. 27.33 Exposing of samples for classification. Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the

judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

Sec. 27.34 Classification procedure. Classification shall proceed as rapidly as possible, but not when light or other conditions make uncertain the accuracy of the results to be obtained.

Sec. 27.35 Lower class of two samples to prevail. In case a sample drawn from one portion of a bale is lower in class than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower class.

Sec. 27.36 Classification and Micronaire determinations based on official standards. All cotton shall be classified for grade and staple length on the basis of the official cotton standards of the United States for grade and staple length in effect at the time of such classification. Micronaire determinations for cotton, upon request under sec. 27.14, sec. 27.62, or sec. 27.63 shall be made according to the official cotton standards of the United States for fiber fineness and maturity in effect at the time of such determinations.

Sec. 27.37 Reduction in value of cotton; determination. If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects, below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value, shall be determined and stated.

Sec. 27.38 Terms defined for purposes of classification. For the purposes of classification the following terms shall be construed, respectively, to mean:

(a) Cotton of perished staple. Cotton that has the strength of fiber as ordinarily found in cotton destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) Cotton of immature staple. Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(c) Gin cut cotton. Cotton that shows damage in ginning, through cutting by the saws, to an extent that reduces its value more than two grades.

(d) Reginned cotton. Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) Repacked cotton. Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales.

(f) False packed cotton. Cotton in a bale (1) containing substances entirely foreign to cotton, (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior, (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination, or (4) containing pickings or linters worked into the bale.

(g) Mixed packed cotton. Cotton in a bale which, in the samples drawn therefrom, shows (1) a difference of three or more grades,

or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(h) Water packed cotton. Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior, has been damaged by water in the interior.

COTTON CLASS CERTIFICATES

Sec. 27.39 Issuance of certificates. Except as otherwise provided in this section as soon as practicable after the classification of cotton has been completed by a board of cotton examiners the board shall issue a cotton class certificate showing the results of such classification. Each certificate shall bear the date of its issuance and the name of the chairman of the board that classified the cotton. The certificate shall show the identification of the cotton according to the information in the possession of the board, the classification of the cotton according to its grade and length of staple and such other facts as the Director may require. As soon as practicable after the Micronaire determination of cotton has been completed by an authorized employee of the Cotton Division, upon request under this subpart, the results of such determination will be certified by the board of cotton examiners or by the Appeal Board of Review Examiners on the classification certificate for the cotton, with the date of issuance of the Micronaire determination, the name of the certifying officer, and such other facts as the Director may require. When a request is made for a review of classification and a Micronaire determination, at the same time as the request for initial classification, the board of cotton examiners shall notify the Appeal Board of Review Examiners of the results of the classification and the latter will review the classification and make the Micronaire determination, and notify the board of cotton examiners of the results. The latter will issue a cotton class certificate over the signature of the chairman of the Appeal Board of Review Examiners, showing the results of the review classification (but not the initial classification), the Micronaire determination, the date of issuance of the certificate, and such other facts as the Director may require. The certificate of classification and Micronaire determination may be placed directly upon the warehouse receipt covering the cotton involved. The board of cotton examiners or the Appeal Board of Review Examiners may authorize an officer of the Service located at another point to certify the results of any classification or Micronaire determination upon the basis of information furnished by such board, notwithstanding any other provisions of this section.

Sec. 27.40 New certificates; conditions of issuance. For the business convenience of a holder of a cotton class certificate issued under this subpart a new certificate may be issued at the request of the holder, to take the place of the former certificate without the reclassification of the cotton and without a new Micronaire determination for the cotton. In any case where a new certificate is issued in accordance with this section, the former certificate shall be surrendered for cancellation, and such new certificate shall bear a new number, the date of its issuance and the date of original certification, and shall otherwise comply with this subpart.

Sec. 27.41 Lost certificate; duplicate. Upon the written request of the last holder of a valid cotton class certificate and a showing to the satisfaction of the chairman of the board of cotton examiners which issued such certificate, that it has been lost or destroyed, and, if lost, that diligent effort has been made to find it without success, a new certificate shall be issued without the reclassification of the cotton and without a new Micronaire determination for the cotton. Such new certificate shall bear the same number and date of issuance as the lost or destroyed certificate, and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original as the case may be.

Sec. 27.42 Surrender of certificate. For good cause any certificate issued under this subpart shall be surrendered to a board of cotton examiners for correction or cancelation. If such certificate be not surrendered upon request it shall nevertheless be invalid under section 4863 of the act and this subpart.

Sec. 27.43 Validity of cotton class certificates. Each cotton class certificate for cotton classified as tenderable shall be valid for use in the tender of such cotton on a section 4863 contract made in accordance with the act and this subpart and the rules of an exchange not inconsistent therewith.

Sec. 27.44 Invalidity of cotton class certificates. Any cotton class certificate shall become invalid for use in the tender or delivery of the cotton covered thereby on a section 4863 contract whenever such cotton shall be removed from the place of storage specified therein, except when it is handled and re-stored or transferred to a different place of storage and restored under the supervision of an exchange inspection agency.

Sec. 27.45 No storage of cotton for classification at disapproved place. No cotton submitted for classification under section 4863 of the act shall be located or stored at a place disapproved for the purpose by the chairman of board of cotton examiners or the Director on account of being unsuitable for the safekeeping or proper storage of such cotton, or on account of the failure or refusal of the custodian thereof to comply or to permit compliance with the requirements of this subpart so far as he may be involved therein. Notice of such disapproval shall be given in such manner as the Director may direct. Thereafter every cotton class certificate, if any, previously issued for cotton located or stored at such place shall be invalid for the delivery of such cotton on a section 4863 contract, unless the cotton shall be removed under the supervision of the exchange inspection agency, or a representative of the Department designated for the purpose by the chairman of the board of cotton examiners or the Director, to a place which shall be suitable for the purpose. Upon such removal and the request of the holder of the cotton class certificate for such cotton a new certificate in lieu thereof, as provided elsewhere in this subpart, shall be issued to him.

Sec. 27.46 Cotton withdrawn from storage. The exchange inspection agency under the supervision or control of which any cotton classified pursuant to this subpart shall be held or stored shall furnish to the board of cotton examiners which classified such cotton, on the first business day of each week, a written statement of all cotton withdrawn from storage, or the lot number or other identification of which has been changed, or which has otherwise been removed from the supervision or control of such exchange inspection agency during the next preceding week. Such

statement shall show each lot number, and, if changed, the new lot number, and in case of the withdrawal or removal of a portion only of the lot, the tag numbers of the bales so withdrawn or removed. If such removal shall be to a different place of storage under the supervision or control of the exchange inspection agency, the statement shall show the new location.

Sec. 27.47 Tender or delivery of cotton; conditions. Subject to the provisions of secs. 27.52-27.56, 27.65, no cotton shall be tendered or delivered on a section 4863 contract unless on or prior to the date fixed for delivery under such contract, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a valid outstanding cotton class certificate complying with the regulations in this subpart, showing such cotton to be tenderable on a section 4863 contract.

DELAYED CERTIFICATION

Sec. 27.52 Delivery without certification. If upon the date fixed for delivery in accordance with section 4863 of the act cotton class certificates shall not have been issued by a board of cotton examiners for cotton to be delivered pursuant to such notice, samples of which cotton shall have been in the custody of the board for the time hereinafter prescribed, the delivery of such cotton may be made upon compliance with and subject to the conditions specified in secs. 27.52-27.56. Sections 27.52-27.56 shall not apply to cotton upon which a board of cotton examiners has already issued cotton class certificates pursuant to this subpart.

Sec. 27.53 Notice for delayed certification; requirements. On the date of giving the transferable notice of the delivery in accordance with section 4863 of the act the person issuing such notice or the person on whose behalf it was issued shall also give written notice to the board or officer with whom the classification request was required to be filed, specifying the date of delivery and the number of bales so to be delivered which have not been certified. In such notice, or later in writing before the delivery of the samples to the board, he shall specify the lot numbers of the cotton so to be delivered.

Sec. 27.54 Inspection and sampling for delayed certification. Such cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must be delivered to the board not later than the date of the issuance of the transferable notice, except when the delivery day fixed by such transferable notice is the last delivery day in the month of delivery. In such case the cotton must have been duly inspected and sampled, and the original samples thereof properly prepared in accordance with this subpart must have been delivered to the board in accordance with all regulations applicable and in readiness for classification not later than 8 p. m. of the second business day preceding such last delivery day.

Sec. 27.55 Requirements in lieu of cotton class certificates on delivery day. If on the morning of the delivery day specified in the transferable notice the cotton class certificates covering the cotton involved are not ready for delivery when called for, the tenderer of the cotton shall present to the chairman of the board of cotton examiners, or to his representative authorized for the purpose, a written notice stating to the best of his knowledge and belief the

true grade of each individual bale to be delivered, properly identifying each bale with its grade. If the foregoing requirements of secs. 27.52-27.56 shall have been complied with, the chairman of the board, or his duly authorized representative, shall cause to be written or stamped on such notice a statement validating it for use in the tender only on such delivery day of the cotton covered thereby pending the issuance of cotton class certificates in accordance with this subpart. The tenderer shall on such delivery day deliver such notice to the receiver of the cotton, together with the warehouse receipts and such other papers as may be necessary to the delivery of the cotton on such day.

Sec. 27.56 Obligations of person making tender. The person making the tender shall deliver the cotton class certificates therefor to the receiver of the cotton before the close of business hours on the date of the issuance thereof, if delivered to such tenderer before 11 a. m. on that day. If the cotton class certificates be delivered to him after 11 a. m. on that day, the tenderer shall in turn deliver them to the receiver before 11 a. m. on the next following business day. There shall be no right of replacement of bales shown by such certificates to be untenderable.

POSTPONED CLASSIFICATION

Sec. 27.57 Request for postponement. If the applicant desires the postponement of the classification of any cotton covered by a classification request filed pursuant to the regulations in this subpart until later notice, the original classification request must so state, or the applicant must so advise the board in writing before the classification has been entered upon. Such request must show cause and that it is not made merely for dilatory reasons.

Sec. 27.58 Postponed classification; must be within 30 days. If thereafter the classification of the cotton be desired, notice thereof shall be filed not later than the expiration of 30 days after the date upon which the samples were drawn from the cotton, and the original samples must have remained continuously in the possession of the board or under its control.

Sec. 27.59 Postponed classification; interference. Classification pursuant to such suspended request shall not be allowed to interfere with or delay the classification of other samples previously made ready for classification or which are otherwise entitled to priority.

Sec. 27.60 When original request deemed withdrawn. If the period of 30 days specified in sec. 27.58 shall expire without the filing of the notice of desire for classification the applicant shall be deemed to have withdrawn the original request for the classification of such cotton.

CLASSIFICATION REVIEWS AND MICRONAIRE DETERMINATIONS

Sec. 27.61 One review of classification. One review only of the classification of the cotton covered by any cotton class certificate may be obtained as provided in secs. 27.62 to 27.72, such review to be performed by the Appeal Board of Review Examiners. Micronaire determinations are not subject to review.

Sec. 27.62 Conditions for review of classification and for incidental Micronaire determination for original applicant. The person for whom the classification of cotton has been or is to be per-

formed under this subpart may have a review of such classification by filing a written application therefor before the delivery of such cotton on a section 4863 contract and not later than the expiration of the seventh business day following the date of the first certification of the cotton involved. Such written application may be made at the same time as the request for initial classification. The written application may also include a request for Micronaire determination of the cotton if this service has not been previously performed.

Sec. 27.63 Conditions for review of classification and for Micronaire determination for receiver. Any receiver of cotton upon a section 4863 contract who has not re-delivered such cotton on a section 4863 contract may have a review of the classification of any cotton of which the classification has not been previously reviewed, by filing a written application within 7 business days following the date of the delivery of cotton class certificates to him in accordance with this subpart. When more than 5,000 bales of cotton shall have been delivered to the same receiver on the same date of delivery, he may, upon proper showing of the facts, be allowed 5 additional business days for filing his application for the review of the classification of any such cotton, provided written request for such extension is filed within 7 business days following the date of such delivery. In the event of the reissue of certificates to replace any certificates delivered to him, the receiver may have a review of the classification of the cotton covered by such reissued certificates, provided such review is requested within the time herein prescribed, calculated from the date of delivery of such reissued certificates. Any such receiver may also have a Micronaire determination, with or without review of classification, under these same conditions on cotton on which this service has not been previously performed under this subpart.

Sec. 27.64 Application for review of classification and for Micronaire determination; filing. (a) Every application for review of classification or for Micronaire determination under sec. 27.62 or sec. 27.63 shall be filed with the board of cotton examiners or in the absence of a board, with the supervisor of inspection at the point where the cotton was or may be delivered in settlement of a contract under the act and this subpart. The application shall in each case be in the hands of such board or supervisor within the time specified in sec. 27.62 or sec. 27.63 for applying for review: Provided, That any board of cotton examiners may designate any officer of the Cotton Division located at another point to receive applications, and in such cases the applications shall be in the hands of the officers so designated within the time so specified. Any person making such application shall, upon call of the person with whom such application was filed under this section, surrender the cotton class certificate or certificates covering the cotton involved.

(b) Such applications shall be made on a form furnished or approved by the Cotton Division and shall contain (1) the name and address of the party, if any, from whom the cotton was received on a section 4863 contract; (2) the lot numbers of the cotton; and (3) the warehouse bale numbers.

Sec. 27.65 Completion of review of classification. In any case where an application for review of classification or an application for Micronaire determination has been filed with respect to cotton previously designated as tenderable, such review or determination

may be completed notwithstanding the subsequent tender of such cotton on a section 4863 contract.

Sec. 27.66 Dismissal of application for review. Any application for review may be dismissed whenever it shall be found by the chairman of the board or the Director that it was filed without good cause or for dilatory purposes.

Sec. 27.67 Use of new samples in reviews and Micronaire determinations. Unless the use of new samples shall be necessary in the judgment of the chairman of the board of cotton examiners, a review classification pursuant to secs. 27.61 to 27.72, or a Micronaire determination pursuant to sec. 27.14, sec. 27.62, or sec. 27.63, shall be made by reference to the samples, if any, of the cotton involved in the possession of the board; but if the use of new samples is deemed necessary by the chairman of said board, or if there are no samples of the cotton in the possession of the board, or if the samples of the cotton have been in the possession of the board for more than one year, the person requesting the review classification or Micronaire determination shall cause new samples to be drawn for the purpose and submitted to the board in accordance with this subpart.

Sec. 27.69 Classification review; notations on certificate. When a review of classification is made after the issuance of a cotton class certificate, the results of the review classification, the date of issuance of the review classification results, and the signature of the chairman of the Appeal Board of Review Examiners shall be entered on the cotton class certificate. Thereupon the certificate shall be returned to the person who requested the review.

Sec. 27.72 Withdrawal of application for review. Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be assessed pursuant to secs. 27.80-27.92.

TRANSFERS OF COTTON

Sec. 27.73 Supervision of transfers of cotton. Whenever the owner of any cotton inspected and sampled for classification pursuant to this subpart and for which he holds valid cotton class certificates, desires to transfer such cotton to a different place, or to a different warehouse at the same place, for the purpose of having it made available for delivery upon a section 4863 contract, such transfer shall be effected under the supervision of the exchange inspection agency in accordance with procedures approved by the Director. For transfers of cotton between different places the owner of the cotton shall surrender the cotton class certificates for the cotton involved to the exchange inspection agency at the place from which the cotton is being transferred. The exchange inspection agency shall cancel the cotton class certificates and forward them, together with other necessary transfer papers, to the exchange inspection agency at the location to which the cotton is being transferred. When the cotton has been delivered for storage at the place of its destination and new warehouse receipts have been issued therefor, the exchange inspection agency at that point shall surrender the cancelled cotton class certificates, other transfer papers, and the new warehouse receipts for the cotton to the board of cotton examiners. Thereupon the board will issue a new cotton class certificate for each bale involved, valid for use

at such destination without the reclassification of the cotton or a new Micronaire determination with respect to the cotton. Transfers between different warehouses at the same place shall be under the supervision of the exchange inspection agency at that place and the procedure as nearly as possible shall be the same as that for transfers between different places. The exchange inspection agency shall report the facts of all transfers to the board of cotton examiners in accordance with sec. 27.46. Supervision of transfers in accordance with this subpart shall not be granted, nor shall any certificate be issued with respect to any bale which appears, upon examination by the exchange inspection agency, or by a supervisor of cotton inspection or other authorized representative of the Cotton Division, to be in such condition that its grade or staple length or fiber fineness and maturity is different from that shown by the cotton class certificate, until such bale has been reclassified, and, if a Micronaire determination is shown on such certificate, until a new Micronaire determination has been made for the bale in accordance with this subpart.

COSTS OF CLASSIFICATION AND MICRONAIRE

Sec. 27.80 Fees; classification and Micronaire determination. For the initial classification, review of classification, Micronaire determination, and certification of cotton pursuant to this subpart, whether such cotton be tenderable or not, the person requesting these services shall pay fees as follows: (a) If the same request covers initial classification, review of classification, and Micronaire determination, and only the review of classification and Micronaire determination results are to be certified on cotton class certificates covering the cotton involved, the entire fee shall be 60 cents per bale; or (b) under all other conditions the fee for initial classification and certification shall be 25 cents per bale, the fee for review of classification and certification shall be 50 cents per bale, and the fee for Micronaire determination and certification shall be 25 cents per bale.

Sec. 27.81 Fees; certificates. For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his business convenience, or when made necessary by the transfer of the cotton as provided in sec. 27.73, the person making the request shall pay a fee of 15 cents for each certificate issued, to cover the cost of such service and the handling of samples incident thereto.

Sec. 27.83 No fees for certain certificates. No fee shall be collected for a new cotton class certificate issued in lieu of a prior certificate solely for the purpose of correcting clerical errors therein or for the purpose of substituting a new form applicable to outstanding certificates, or without an application therefor.

Sec. 27.85 Fees; withdrawn requests or applications. When the request for classification, or the application for review of classification, of any cotton or the request for Micronaire determination for any cotton shall be withdrawn after the service requested has been started pursuant to such request or application, the person making such request or application shall pay the fee prescribed by sec. 27.80 as to any service completed prior to such withdrawal.

Sec. 27.87 Fees; classification and Micronaire determination information. Whenever the person who requests the classification of, or Micronaire determination for, any cotton, or the person on whose behalf such request is made, also requests the transmission by telegraph or telephone of information concerning such classification or Micronaire determination, the person making the request for such classification or determination shall pay, in addition to the applicable costs prescribed in this subpart, the cost of tolls incurred in such transmission.

Sec. 27.88 Travel expense. When the inspection and sampling or the supervision of the transfer of any cotton shall be performed at a place other than that where a board of cotton examiners or supervisor of cotton inspection is regularly located, the person making the request for the classification or the supervision of the transfer of the cotton shall pay, in accordance with the fiscal regulations of the Department, in addition to the costs hereinbefore prescribed, the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, by the persons employed by the Department to supervise such inspection and sampling or transfer.

Sec. 27.89 Expenses: inspection; sampling. The expense of inspection and sampling, the preparation of the samples and the delivery of such samples in accordance with sec. 27.24, shall be borne by the party requesting the classification of the cotton involved. When a review of classification or a Micronaire determination is requested and samples of the cotton involved are not in possession of a board of cotton examiners, the expense of inspection, sampling, preparation of samples, and delivery of the samples to the board of cotton examiners shall be borne by the party requesting the service.

Sec. 27.90 Bills for payment of fees and expenses. The Cotton Division shall deliver bills to all persons from whom payment for fees or expenses on account of service under this subpart shall be due. Such bills shall be rendered as soon as practicable after the last day of each month for the amounts due and unpaid on such day. When necessary, in the discretion of the chairman of the board or the Director, any bill may be rendered at an earlier date for any fees and expenses then due by the person to whom such bill shall be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than 2 weeks after such rendition.

Sec. 27.91 Advance deposit may be required. If requested by the chairman of the board of cotton examiners with which the classification request is required to be filed or by the Director, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official requesting the same.

Sec. 27.92 Method of payment; advance deposit. Any payment or advance deposit under this subpart shall be by check, draft, or money order, payable to the order of "Agricultural Marketing Service, USDA," and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

SPOT MARKETS

Sec. 27.93 Bona fide spot markets. The following markets have been determined, after investigation, and are hereby designated to be bona fide spot markets within the meaning of the act:

Atlanta, Ga.	Greenwood, Miss.
Augusta, Ga.	Houston, Tex.
Charleston, S. C.	Little Rock, Ark.
Dallas, Tex.	Lubbock, Tex.
Fresno, Calif.	Memphis, Tenn.
Galveston, Tex.	Montgomery, Ala.
Greenville, S. C.	New Orleans, La.

Sec. 27.94 Spot markets (for certain determinations only). The following are designated as spot markets for the purpose of determining, as provided in paragraph 4863 (c) of the act, the differences above or below the contract price which the receiver shall pay for grades other than the basis grade tendered or delivered in settlement of a section 4863 contract:

(a) For cotton delivered in settlement of any such contract at delivery points on or near the Gulf of Mexico:

Dallas, Tex.	Memphis, Tenn.
Galveston, Tex.	New Orleans, La.
Houston, Tex.	

(b) For cotton delivered in settlement of any such contract at delivery points on the Atlantic coast:

Atlanta, Ga.	Memphis, Tenn.
Augusta, Ga.	Montgomery, Ala.
Charleston, S. C.	

PRICE QUOTATIONS AND DIFFERENCES

Sec. 27.95 Spot markets to conform to act and regulations. Every bona fide spot market shall, as a condition of its designation and of the retention thereof for the purposes of the act, conform to section 4862 and paragraph 4863 (c) of the act and the requirements of secs. 27.96-27.102.

Sec. 27.96 Basis of prices in bona fide spot markets. The prices or values of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton in each bona fide spot market shall be based solely upon the grades of the official cotton standards of the United States and shall be the actual commercial prices or values and differences established by the sale of spot cotton in such bona fide spot market. Such prices or values and differences shall be determined as provided in said sections of the act and secs. 27.96-27.102.

Sec. 27.97 Quotation committees; establishing. There shall be established and maintained in each bona fide spot market a competent quotation committee. The organization of such committee and its personnel shall be subject to the approval of the Director, and any member of such committee who for good cause is disapproved by the Director shall, after due notice, be replaced by another person acceptable for the purpose to the Director. Such

committee shall impartially and carefully ascertain and publish on each business day the value of Middling cotton and the differences between the prices or values of Middling cotton and of other grades of cotton represented by the official cotton standards of the United States. The committee shall disregard any transactions which it finds were not bona fide, or were made for the purpose of influencing its action improperly, or for other good reasons do not represent truly the commercial values of spot cotton in its market. The time or times of ascertaining and publishing such prices or values and differences shall be uniform in all the bona fide spot markets and shall be fixed subject to the approval of the Director so as to carry out the purposes of section 4863 of the act. The committee shall cause its action to be communicated at once to each futures exchange and to the Cotton Division.

Sec. 27.98 Duties of quotation committees. Each such quotation committee shall provide itself with, or have ready access to, a full valid set of the practical forms of the official cotton standards of the United States for grade of upland cotton. Such committee, or a person authorized to act for it, shall obtain complete and satisfactory information not later than the close of business on each business day as to all sales of spot cotton since the close of the next preceding business day, including the grades, the prices or price basis, and other terms of sale in sufficient detail to enable the committee to perform its duties accurately. Such committee shall also have access to the samples representing the cotton involved in such sales. Any record of such information shall be subject to examination at any reasonable time by a duly authorized representative of the Department, and the samples of the cotton as long as they remain in the possession of any party to the transaction in such market shall also be available for such examination.

Sec. 27.99 Value of grade where no sale; determination. Whenever no sale of a particular grade of cotton shall have been made on a given day in a particular bona fide spot market, the value of such grade in that market on that day, which shall be used in calculating the commercial differences to be applied, pursuant to paragraph 4863 (c) of the act, in the settlement of a section 4863 contract, shall be determined in accordance with sec. 27.100.

Sec. 27.100 Values of grades. (a) If on such given day there shall have been in such market both a sale of any higher grade and a sale of any lower grade, the average of the declines, or advances, or decline and advance, as the case may be, of the next higher grade and the next lower grade so sold shall be deducted from, or added to, as the case may be, the value, on the last preceding business day, of the grade the value of which on such given day is sought to be ascertained.

(b) If on such given day there shall have been in such market a sale of either a higher or a lower grade, but not sales of both, the decline or advance of the next higher or the next lower grade so sold shall be deducted from, or added to, as the case may be, the value on the last preceding business day of the grade the value of which on such given day is sought to be ascertained.

(c) If on such given day there shall have been in such market no sale of spot cotton of any grade, the value of each grade shall be deemed to be the same as its value therein on the last preceding business day, unless in the meantime there shall have been bona fide bids and offers, or sales of hedged cotton, or other sales of cotton, or changes in prices of futures contracts made subject to

the act, which in the usual course of business would clearly establish a rise or fall in the value of spot cotton in such market, in which case such rise or fall may be calculated and added to or deducted from the value on the preceding business day of cotton of all grades affected thereby.

Sec. 27.101 Values; expression. For the purpose of this subpart values shall be expressed in terms of cents and hundredths of a cent. A fraction of a hundredth, when equal to, or greater than, the half thereof, shall be treated as a hundredth, and when less than a half of a hundredth shall be disregarded.

Sec. 27.102 Administration. The details of the method of carrying out the provisions of this subpart in each bona fide spot market shall be subject to the approval of the Director or shall be prescribed by him.

COTTON FUTURES PROVISIONS OF INTERNAL REVENUE CODE OF 1954¹

Internal Revenue Code of 1954

Subtitle D, Chapter 39, Subchapter D--Cotton Futures

(Approved August 16, 1954; 68A Stat. 580-586; 26 U.S.C. 4851-4877)

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PART I - GENERAL PROVISIONS

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Sec. 4851. IMPOSITION OF TAX

(a) Rate. Upon each contract of sale of any cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business, there shall be imposed a tax in the nature of an excise of 2 cents for each pound of the cotton involved in any such contract.

(b) By whom paid. The tax imposed by subsection (a) shall be paid by the seller of the cotton involved in the contract of sale.

Sec. 4852. DEFINITION

For the purpose of this subchapter, the term "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell.

Sec. 4853. FORM AND VALIDITY OF CONTRACTS

(a) Form. Each contract of sale of cotton for future delivery mentioned in section 4851(a) shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. If the contract or memorandum specify in bales the quantity of the cotton involved, without giving the weight, each bale shall, for the purpose of this subchapter, be deemed to weigh 500 pounds.

(b) Validity. No contract of sale of cotton for future delivery mentioned in section 4851(a), which does not conform to the require-

¹ Effective January 1, 1955, these provisions superseded the similar provisions of the Internal Revenue Code of 1939 (26 U.S.C. 1920-1935) derived from the United States Cotton Futures Act of August 11, 1916 and related laws.

ments of subsection (a) of this section and has not the necessary stamps affixed thereto as required by section 4871, shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies.

Sec. 4854. COTTON STANDARDS

(a) Source and description. Subject to the provisions of section 6 of the Act of March 4, 1923 (42 Stat. 1518; 7 U.S.C. 56), the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purpose of this subchapter, shall be known as the "Official cotton standards of the United States": Provided, That any standard of any cotton established and promulgated under this subchapter by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: Provided further, That no change or replacement of any standard of any cotton established and promulgated under this subchapter by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when same is to become effective.

(b) Practical forms.

(1) Preparation, certification, and distribution. The Secretary of Agriculture is authorized and directed to prepare practical forms of the official cotton standards which shall be established by him, and to furnish such practical forms from time to time, upon request, to any person, the cost thereof, as determined by the Secretary of Agriculture, to be paid by the person requesting the same, and to certify such practical forms under the seal of the Department of Agriculture and under the signature of the said Secretary, thereto affixed by himself or by some official or employee of the Department of Agriculture thereunto duly authorized by the said Secretary.

(2) Disposition of receipts from sales. All sums collected by the Secretary of Agriculture for furnishing practical forms under paragraph (1) shall be deposited and covered into the Treasury as miscellaneous receipts.

PART II - EXEMPTIONS

Sec.

4861. Spot cotton.

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4865. Specific grade contracts.

Sec. 4861. SPOT COTTON

This subchapter shall not be construed to impose a tax on any sale of spot cotton.

Sec. 4862. DEFINITION OF BONA FIDE SPOT MARKETS

(a) Definition. For the purpose of this subchapter, the only markets which shall be considered bona fide spot markets shall be those which the Secretary of Agriculture shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

(b) Determination. In determining, pursuant to the provisions of this subchapter, what markets are bona fide spot markets, the Secretary of Agriculture is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary of Agriculture: Provided, That if there be not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary of Agriculture, to enable him to designate at least five spot markets in accordance with section 4863(c), he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event differences in value of cotton of various grades involved in contracts made pursuant to section 4863(a) and (b) shall be determined in compliance with such rules and regulations: Provided further, That it shall be the duty of any person engaged in the business of dealing in cotton, when requested by the Secretary of Agriculture or any agent acting under his instructions, to answer correctly to the best of his knowledge, under oath or otherwise, all questions touching his knowledge of the number of bales, the classification, the price or bona fide price offered, and other terms of purchase or sale, of any cotton involved in any transaction participated in by him, or to produce all books, letters, papers, or documents in his possession or under his control relating to such matter.

Sec. 4863. BASIS GRADE CONTRACTS

(a) Conditions. No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851(a) if the contract complies with each of the following conditions:

(1) Conformity with section 4853(a) and regulations. Conform to the requirements in section 4853(a) and the rules and regulations made pursuant to this subchapter.

(2) Specification of grade, price, and dates of sale and settlement. Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth paragraph of this subsection, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: Provided, That middling shall be deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

(3) Provision for delivery of standard grades only. Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture except grades prohibited from being delivered on a contract made under this section by paragraph (5) and no other grade or grades.

(4) Provision for settlement on basis of actual commercial differences. Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

(5) Prohibition of delivery of inferior cotton. Provide that cotton that, because of the presence of extraneous matter of any character, or irregularities or defects, is reduced in value below that of low middling, or cotton that is below the grade of low middling, or, if tinged, cotton that is below the grade of strict middling, or, if yellow stained, cotton that is below the grade of good middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple, or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed", shall not be delivered on, under, or in settlement of such contract.

(6) Provisions for tender in full, notice of delivery date, and certificate of grade. Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

(7) Provision for tender and settlement in accordance with government classification. Provide that all tenders of cotton and settlements therefor under such contract shall be in accordance with the classification thereof made under the regulations of the Secretary of Agriculture by such officer or officers of the Government as shall be designated for the purpose, and the costs of such classification shall be fixed, assessed, collected, and paid as provided in such regulations. All moneys collected as such costs may be used as a revolving fund for carrying out the purposes of this paragraph. The Secretary of Agriculture is authorized to prescribe regulations for carrying out the purposes of this paragraph, and the certificates of the officers of the Government as to the classification of any cotton for the purposes of this paragraph shall be accepted in the courts of the United States in all suits between the parties to such contract, or their privies, as prima facie evidence of the true classification of the cotton involved.

(b) Incorporation of conditions in contracts. The provisions of subsection (a) (3), (4), (5), (6), and (7) shall be deemed fully in-

incorporated into any such contract if there be written or printed thereon, or on the memoranda evidencing the same, at or prior to the time the same is signed, the phrase "Subject to Internal Revenue Code, section 4863."

(c) Delivery allowances. For the purpose of this section, the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basis grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with subsection (a) (6), for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary of Agriculture, as such values were established by the sales of spot cotton, in such designated five or more markets: Provided, That for the purpose of this subsection such values in the said spot markets be based upon the standards for grades of cotton established by the Secretary of Agriculture: And provided further, That whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary of Agriculture.

Sec. 4864. TENDERED GRADE CONTRACTS

(a) Conditions. No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851(a) if the contract--

(1) Compliance with section 4863. Comply with all the terms and conditions of section 4863 not inconsistent with this section; and

(2) Provision for contingent specific performance. Provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein and at the price specified for such basis grade in said contract.

(b) Incorporation of conditions in contract. Contracts made in compliance with this section shall be known as "Section 4864 Contracts." The provisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to Internal Revenue Code, section 4864."

(c) Application of section. Nothing in this section shall be so construed as to relieve from the tax imposed by section 4851(a) any contract in which, or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this subchapter.

Sec. 4865. SPECIFIC GRADE CONTRACTS

(a) Conditions. No tax shall be imposed under this subchapter on any contract of sale mentioned in section 4851(a) if the contract complies with each of the following conditions:

(1) Conformity with rules and regulations. Conform to the rules and regulations made pursuant to this subchapter.

(2) Specification of grade, price, dates of sale and delivery. Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

(3) Prohibition of delivery of other than specified grade. Provide that cotton of or within the grade or of the type, or according to the sample or description, specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

(4) Provision for specific performance. Provide that the delivery of cotton under the contract shall not be effected by means of "set-off" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

(b) Incorporation of conditions in contract. The provisions of subsection (a) (1), (3), and (4) shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "Subject to Internal Revenue Code, section 4865."

(c) Application of section. This section shall not be construed to apply to any contract of sale made in compliance with section 4863 or 4864.

PART III - ADMINISTRATIVE PROVISIONS

Sec.

4871. Method of payment.

4872. Collection and enforcement.

4873. Liability of principal for acts of agent.

4874. Immunity of witnesses.

4875. Operation of State laws.

4876. Reports of Secretary of Agriculture.

4877. Cross references.

Sec. 4871. METHOD OF PAYMENT

The tax imposed by section 4851(a) shall be paid by means of stamps which shall be affixed to such contracts, or to the memoranda evidencing the same, and canceled in compliance with rules and regulations which shall be prescribed by the Secretary or his delegate.

Sec. 4872. COLLECTION AND ENFORCEMENT

(a) Rules and regulations. The Secretary or his delegate is authorized to make and promulgate such rules and regulations as he may deem necessary to collect the tax imposed by this subchapter and otherwise to enforce its provisions.

(b) Records and returns. Further to effect the purpose of subsection (a), the Secretary or his delegate shall require all persons coming within its provisions to keep such records and statements of account, and may require such persons to make such returns verified under oath or otherwise, as will fully and correctly disclose all transactions mentioned in section 4851(a), including the making, execution, settlement, and fulfillment thereof; he may require all persons who act in the capacity of a clearing house, clearing association, or similar institution for the purpose of clearing, settling, or adjusting transactions mentioned in section 4851(a) to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions.

(c) Employment of officers and employees. The Secretary or his delegate may appoint officers and employees to conduct the inspection necessary to collect said tax and otherwise to enforce this subchapter and all rules and regulations made by him in pursuance hereof.

Sec. 4873. LIABILITY OF PRINCIPAL FOR ACTS OF AGENT

When construing and enforcing the provisions of this subchapter, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, or corporation within the scope of his employment or office shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation, as well as that of the person.

Sec. 4874. IMMUNITY OF WITNESSES

No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of this subchapter shall withhold his testimony because of complicity by him in any violation of this subchapter or of any regulation made pursuant to this subchapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates.

Sec. 4875. OPERATION OF STATE LAWS

The payment of any tax imposed by this subchapter shall not exempt any person from any penalty or punishment now or hereafter provided by the laws of any State for entering into contracts of sale of cotton for future delivery, nor shall the payment of any tax imposed by this subchapter be held to prohibit any State or municipality from imposing a tax on the same transaction.

Sec. 4876. REPORTS OF SECRETARY OF AGRICULTURE

The Secretary of Agriculture is directed to publish from time to time the results of investigations made in pursuance of this subchapter.

Sec. 4877. CROSS REFERENCES

For penalties and other general and administrative provisions applicable to this subchapter, see subtitle F.

THE PROVISIONS IN SUBTITLE F REFERRED TO IN SEC. 4877 ARE AS FOLLOWS:

Sec. 6001. NOTICE OR REGULATIONS REQUIRING RECORDS, STATEMENTS, AND SPECIAL RETURNS

Every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary or his delegate may from time to time prescribe. Whenever in the judgment of the Secretary or his delegate it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary or his delegate deems sufficient to show whether or not such person is liable for tax under this title.

Sec. 6804. ATTACHMENT AND CANCELLATION

Except as otherwise expressly provided in this title, the stamps referred to in section 6801 shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as the Secretary or his delegate may prescribe by rules or regulations.

Sec. 7233. FAILURE TO PAY, OR ATTEMPT TO EVADE PAYMENT OF, TAX ON COTTON FUTURES, AND OTHER VIOLATIONS

Any person--

(1) Nonpayment or evasion of tax. Liable to the payment of any tax imposed by subchapter D of chapter 39, who fails to pay, or evades, or attempts to evade the payment of such tax; and

(2) Other violations. Who otherwise violates any provision of subchapter D of chapter 39, or any rule or regulation made in pursuance thereof; shall, upon conviction thereof, be fined not less than \$100 nor more than \$20,000, in the discretion of the court; and, in case of natural persons, may, in addition, be punished by imprisonment for not less than 60 days nor more than 3 years, in the discretion of the court.

Sec. 7263. PENALTIES RELATING TO COTTON FUTURES

(a) Withholding information. Any person engaged in the business of dealing in cotton who shall, within a reasonable time prescribed by the Secretary of Agriculture or any agent acting under his instructions, willfully fail or refuse to answer questions or to produce books, letters, papers, or documents, as required under section 4862(b), or who shall willfully give any answer that is false or misleading, shall, upon conviction thereof, be fined not more than \$500.

(b) Civil penalties. In addition to the criminal penalties provided by section 7233, there shall be imposed, on account of each violation of subchapter D of chapter 39, relating to cotton futures, a penalty of \$2,000, to be recovered in a civil action founded on subchapter D of chapter 39 in the name of the United States as plaintiff, and

when so recovered one-half of said amount shall be paid over to the person giving the information upon which such recovery was based. It shall be the duty of United States attorneys, to whom satisfactory evidence of violations of subchapter D of chapter 39 is furnished, to institute and prosecute actions for the recovery of the penalties prescribed by this subsection.

Sec. 7492. ENFORCEABILITY OF COTTON FUTURES CONTRACTS

No contract of sale of cotton for future delivery mentioned in section 4851(a), which does not conform to the requirements of section 4853 and has not the necessary stamps affixed thereto as required by section 4871, shall be enforceable in any court of the United States by, or on behalf of, any party to such contract or his privies.

Sec. 7493. IMMUNITY OF WITNESSES IN CASES RELATING TO COTTON FUTURES

No person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of subchapter D of chapter 39 (relating to cotton futures) shall withhold his testimony because of complicity by him in any violation of subchapter D of chapter 39, or of any regulation made pursuant to such chapter, but any such person called by such officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates.

Sec. 7701. DEFINITIONS

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof--

(1) Person. The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(11) Secretary. The term "Secretary" means the Secretary of the Treasury.

(12) Delegate. The term "Secretary or his delegate" means the Secretary of the Treasury, or any officer, employee, or agency of the Treasury Department duly authorized by the Secretary (directly, or indirectly by one or more redelegations of authority) to perform the function mentioned or described in the context, and the term "or his delegate" when used in connection with any other official of the United States shall be similarly construed.
